IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.1098 OF 2005

Raja Roy ..Appellant.

Vs.

Smt.Susheel Bajaj & anr. ..Respondent.

....

Mr.A.M.Saraogi for the Appellant.

CORAM : DR.D.Y.CHANDRACHUD, J.

12th December, 2005.

P.C. :

The Notice of Motion moved by the Appellant before the City Civil Court was for the issuance of an order and direction to the Second Respondent to hand over custody of the negatives of a film by the name of 'Takrao' to the Appellant, subject to the clearance of the dues and in the event of any lien or charge, subject to the clearance thereof. The sole case of the Appellant was based on a document

alleged to have been executed by the husband of the First Defendant purporting to relinquish rights in respect of the film in favour of the Appellant. The authenticity of the document has been disputed on behalf of the First Respondent. The Learned Trial Judge was therefore correct in holding that unless that is decided at the trial, the relief which has been sought in the Notice of Motion cannot be granted. The Plaint also proceeds on the basis that the film was completed in 1990 and that it has little or no commercial value at present. The Learned Trial Judge while disposing of the Notice of Motion, however, took note of the fact that the Second Defendant with whom the negatives have been stored has closed down its laboratory. Hence, both the parties by mutual consent were granted liberty to make an application in regard to the laboratory where the negatives should be stored pending the trial.

The only grievance which has been made at the hearing of this Appeal is that the First Respondent has not come forth to suggest the name of any laboratory in which the negatives should be stored pending the trial and the Second Respondent

has closed down its laboratory. However, in response to a query of the Court, counsel appearing for the Appellant stated that after the passing of the order of the City Civil Court on 2nd September, 2005, the Appellant has not written even a single letter to the First Respondent suggesting the name of any laboratory wherein the negatives can be stored. In these circumstances, since no such request has been made on behalf of the Appellant to the First Respondent, the Appellant cannot be heard to make a grievance at this stage. In implementation of the order of the City Civil Court, it would be open to the Appellant to suggest to the First Respondent the names of alternative laboratories where the negatives could be stored. In the event that the parties are not able to arrive at any agreement within a reasonable time, it would be open to the Appellant to move the Learned Trial Judge for necessary directions in that regard. Since no other point has been pressed, the Appeal from Order is dismissed.